IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1693 OF 2004

Sau.Gaurabai Ramgonda Kankhandaki
& Ors. ...Petitioners

Versus

State of Maharashtra & Anr. ...Respondents

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Mr.D.V.Sutar i/b Mr.V.M.Thorat for Petitioners.

Mr.D.R.More, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

NOVEMBER 24, 2004.

P.C.

1. Heard Counsel for the parties.

2. The only question pressed before this Court is that the prosecution launched against the Petitioners under Section 498-A of the Indian Penal Code was barred by limitation and the Court below while taking cognizance has not recorded satisfaction as to whether sufficient cause was

made out by the complainant for the delay, but has only recorded satisfaction about the latter part of Section 473 of the Criminal Procedure Code, 1973 that it is necessary to condone the delay in the interest of justice.

3. In view of the decision of the Apex Court reported in **(1993) 3 SCC 4 in Vanka Radhamanohari vs. Vanka Venkata Reddy & Ors.**, in particular, Paragraphs 6 and 7 thereof, the Apex Court has said that the maxim *"vigilantibus, et non, dormientibus, jura subveniunt"* does not apply in relation to offences relating to cruelty against women. The decision of the Apex Court which is pressed into service on behalf of the Petitioners to contend that both the conditions specified in Section 473 of the Code are to be satisfied before condoning the delay, to my mind, is misreading of the said Judgment. Emphasis was placed on the observations made in paragraphs 14 and 16 in the case of **1999 SCC (Cri.) 629 in the case of Arun Vyas & Anr. vs. Anita Vyas.** In my opinion, however, the Court below has rightly taken cognizance on recording the finding that it is necessary in the interest of

justice to take cognizance inspite of complaint being barred by limitation. No fault can be found with the view taken by the Court below. Rejected.

A.M.KHANWILKAR, J.